

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

10 MARCUS LINTHECOME,) CASE NO. CV 18-5274-JGB (PJW)
11 Petitioner,)
12 v.) ORDER DISMISSING HABEAS CORPUS
13 KENNETH BLACK, ET AL.,) PETITION WITHOUT PREJUDICE AND
14 Respondents.) DENYING CERTIFICATE OF
APPEALABILITY

16 On June 14, 2018, Petitioner, who at that time was incarcerated
17 in West Valley Detention Center, Rancho Cucamonga, filed a petition
18 for writ of habeas corpus pursuant to 28 U.S.C. § 2254, contending
19 that Respondents had deprived him of his rights under the Fifth and
20 Fourteenth Amendments. On August 17, 2018, the Court dismissed the
21 petition with leave to amend on the ground that the petition failed to
22 clearly state a claim for relief. The Court admonished Petitioner to
23 "set forth his claims as simply and concisely as possible, indicating
24 which conviction or sentence he is challenging and on what grounds."
25 (Doc. No. 6 at 2.) On September 7, 2018, Petitioner filed a First
26 Amended Petition. For the following reasons, the First Amended
27 Petition is dismissed without prejudice.

1 As the Court previously instructed Petitioner, the purpose of
2 habeas corpus is to attack the legality of a conviction or the length
3 of a sentence. See *Preiser v. Rodriguez*, 411 U.S. 475, 486-88 (1973);
4 *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979). In his First
5 Amended Petition, however, as in his initial petition, Petitioner has
6 recited a jumble of allegations regarding his arrests, prior prison
7 terms, and incarceration. For example, it appears that Petitioner is
8 attempting to challenge, alternatively, his illegal arrests, unlawful
9 jail terms, and "excessive term of parole," but without indicating
10 when these events occurred, who was responsible, and which of his
11 federal constitutional rights were violated. Moreover, Petitioner
12 fails to identify any state court conviction that he wishes to
13 challenge by way of this section 2254 habeas corpus petition.

14 Furthermore, the Court has now received undelivered mail that
15 indicates that Petitioner is no longer in the custody of the West
16 Valley Detention Center. As such, there is no longer any relief that
17 the Court can grant Petitioner in federal habeas corpus and,
18 therefore, the First Amended Petition is moot. For these reasons, the
19 First Amended Petition is dismissed without prejudice.

20 Finally, because Petitioner has not made a substantial showing of
21 the denial of a constitutional right or that the Court erred in its
22 procedural ruling, Petitioner is not entitled to a certificate of
23 appealability. See 28 U.S.C. § 2253(c)(2); Fed. R. App. P. 22(b);
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¹ *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

IT IS SO ORDERED

DATED: April 30, 2019

JESUS G. BERNAL
UNITED STATES DISTRICT JUDGE

Presented by:

PATRICK J. WALSH
UNITED STATES MAGISTRATE JUDGE